



DEVELOPMENT SERVICES DEPARTMENT
ENVIRONMENTAL COORDINATOR
450 110th Ave NE
BELLEVUE, WA 98009-9012

DETERMINATION OF NON-SIGNIFICANCE

PROPONENT: Ferguson Residence VMP

LOCATION OF PROPOSAL: 4946 165th Place SE

DESCRIPTION OF PROPOSAL: The applicant requests a Critical Areas Land Use Permit for a Vegetation Management Plan to restore the previous removal of two (2) Alder trees and four (4) Birch trees located within the 50 ft. buffer of a Type F stream (Lewis Creek) and located within a Native Growth Protection Easement. This permit is associated with the enforcement action permit number 21-101258 EA

FILE NUMBERS: 21-107357-LO **PLANNER:** Kimo Burden

The Environmental Coordinator of the City of Bellevue has determined that this proposal does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(C). This decision was made after the Bellevue Environmental Coordinator reviewed the completed environmental checklist and information filed with the Land Use Division of the Development Services Department. This information is available to the public on request.

- ☐ There is no comment period for this DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's office by 5:00 p.m. on _____.
- ☒ This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS. There is a 14-day appeal period. Only persons who submitted written comments before the DNS was issued may appeal the decision. A written appeal must be filed in the City Clerk's Office by 5 p.m. on **9/2/2021**
- ☐ This DNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on _____. This DNS is also subject to appeal. A written appeal must be filed in the City Clerk's Office by 5:00 p.m. on _____.

This DNS may be withdrawn at any time if the proposal is modified so as to have significant adverse environmental impacts; if there is significant new information indicating a proposals probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project); or if the DNS was procured by misrepresentation or lack of material disclosure.

 **for**
Elizabeth Stead, Environmental Coordinator

8/19/2021
Date

OTHERS TO RECEIVE THIS DOCUMENT:

- ☒ State Department of Fish and Wildlife / Stewart.Reinbold@dfw.gov
- ☒ State Department of Ecology, Shoreline Planner N.W. Region / Jobu461@ecy.wa.gov; sepaunit@ecy.wa.gov
- ☒ Army Corps of Engineers Susan.M.Powell@nws02.usace.army.mil
- ☒ Attorney General ecyolyef@atg.wa.gov
- ☒ Muckleshoot Indian Tribe Karen.Walter@muckleshoot.nsn.us; Fisheries.fileroom@muckleshoot.nsn.us



**City of Bellevue
Development Services Department
Land Use Staff Report**

Proposal Name: **Ferguson Residence VMP**

Proposal Addresses: **4946 165th Place SE**


Proposal Description: The applicant requests a Critical Areas Land Use Permit for a Vegetation Management Plan to restore the previous removal of two (2) Alder trees and four (4) Birch trees located within the 50 ft. buffer of a Type F stream (Lewis Creek) and located within a Native Growth Protection Easement. This permit is associated with the enforcement action permit number 21-101258 EA.

File Number: **21-107357-LO**


Applicant: **William Ferguson**

Decisions Included: Critical Areas Land Use Permit
(Process II. LUC 20.30P)

Planner: **Kimo Burden, Associate Planner**

**State Environmental Policy Act
Threshold Determination:** **Determination of Non-Significance**
 **for**

Elizabeth Stead, Environmental Coordinator
Development Services Department

Director's Decision: **Approval with Conditions**
 **for**

Elizabeth Stead, Land Use Director
Development Services Department

Application Date: April 15, 2021
Notice of Application Publication Date: May 6, 2021
Decision Publication Date: August 19, 2021
Project/SEPA Appeal Deadline: September 2, 2021

For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. Comments on State Environmental Policy Act (SEPA) Determinations can be made with or without appealing the proposal within the noted comment period for a SEPA Determination. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

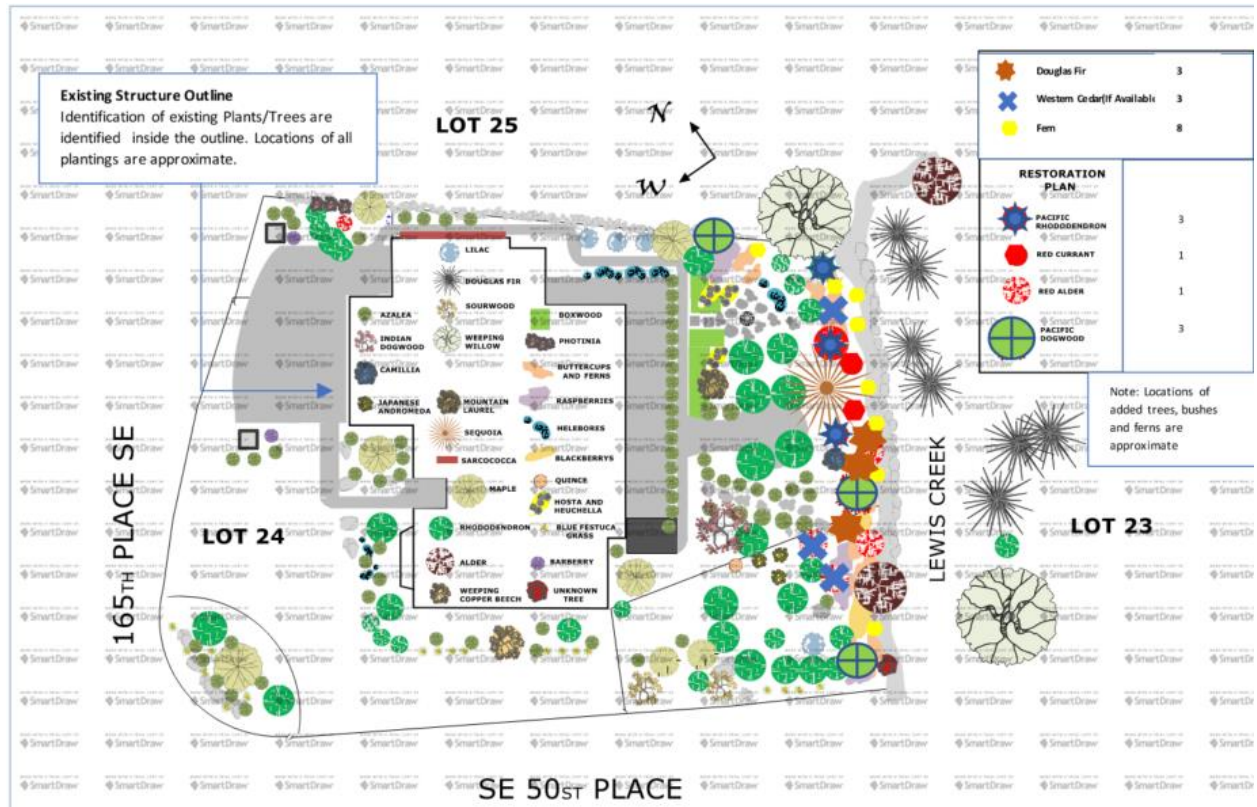
I. Proposal Description

The applicant is requesting a Critical Areas Land Use Permit (CALUP) to restore the previous removal of two (2) Alder trees and four (4) Birch trees located within the 50 ft. buffer of a Type F stream (Lewis Creek) and located within a Native Growth Protection Easement. This permit is associated with the enforcement action permit number 21-101258 EA.

The subject site is zoned R-3.5 and contains an existing 2,800 sq. ft. single-family residence that was constructed in 1989 (permit No. 89-000019 BS). The subject site and surrounding lots were developed as part of the Vuemont Meadows Plat. This plat also established the NGPE that is located on southeastern portion of the lot.

Per LUC 20.25H.055.C.3.(i)iv a CALUP is required because the proposed vegetation management activities are located within a critical area and critical area buffer.





II. Consistency with Land Use Code Requirements

Vegetation Management Plan Performance Standards LUC 20.25H.055.C.3.v.i

(A) Is the Vegetation Management Plan prepared by a qualified professional?

Yes ☒ or No ☐

Describe:

Plan Preparer's Name: Dylan Galloway

Company: Galloway Environmental, Inc.

Address: 15600 NE 8th Street, Suite B1, 617 Bellevue, WA 98008

Phone: 425-894-8607

Statement of Qualifications: REA

(B) Does the Vegetation Management Plan include the following?

(1) A description of existing site conditions, including existing critical area functions and values;

Yes ☒ or No ☐

Describe: The site is zoned R-3.5 and is developed with a two story, 2,800 sq. ft. single-family residence constructed in 1989. Of the 10,540 sq. ft. parcel, the impervious surfaces account for approximately 3,220 sq. ft. and includes the residential structure, attached garage and paved driveway. The southeastern portion of the site contains Lewis Creek a Type F stream and a NGPE established as part of the Vuemont Meadows Plat. The active creek channel is estimated to be approximately 6 ft. wide with a varied depth ranging from 4 inches to 18 inches. The creek substrate generally, consist of small to moderate sized

smooth gravels and cobbles over small well graded gravels. The existing vegetation near the creek includes douglas firs, birch, alder, rhododendron, lawn and under story plantings. Per a wetland report prepared by Galloway Environmental, Inc. dated May 7, 2021 there is not a wetland on-site associated with Lewis Creek.

(2) A site history;

Yes ☒ or No ☐

Describe: The subject site was created as part of the Vuemont Meadows Plat and contains a single-family residence, attached garage and associated infrastructure, including a paved parking pad, utilities lines and landscaping.

(3) A discussion of the plan objectives;

Yes ☒ or No ☐

Describe: The general objective of the plan is to restore the previously removed two (2) alder's and four (4) birch trees located in the 50 ft. buffer of the Type F stream and in the NGPE. By restoring and enhancing the vegetation along the banks of the on-site Lewis Creek, the critical area will receive greater ecological and biological functions. These actions will serve as equal to or greater than, a two to one ratio of mitigation.

(4) A description of all sensitive features;

Yes ☒ or No ☐

Describe: The site contains a Type F stream Lewis Creak and an associated NGPE. See the attached Vegetation Management Plan dated June 20, 2021 from the Galloway Environmental, Inc, for a more detailed description of all critical areas and their buffers.

(5) Identification of soils, existing vegetation, and habitat associated with species of local importance present on the site;

Yes ☒ or No ☐

Describe: The soils on site consist of predominantly well drained silty sandy loam with some small to medium rounded gravel and varying amounts of foreign debris (VMP Addendum dated May 7, 2021).

The most prevalent vegetation cover throughout the site included residential grasses and rhododendrons (VMP Addendum dated May 7, 2021). The vegetation near Lewis Creek generally consisted of douglas firs, birch and alder trees (VMP dated May 20, 2021)

(6) Allowed work windows;

Yes ☒ or No ☐

Describe: All mitigation and replacement planting shall be installed prior to Fall 2021. If planted in the Summer Months significant irrigation shall be provided and a irrigation plan is required at the time of the Clear and Grade permit submittal. **See section VII for conditions of approval for required permit and rainy season restrictions.**

(7) A clear delineation of the area within which clearing and other vegetation management practices are allowed under the plan; and

Yes ☒ or No ☐

Describe: The restoration plans prepared by Galloway Environmental, Inc. clearly identify areas of work.

(8) Short and long-term management prescriptions, including characterization of trees and vegetation to be removed, and restoration and revegetation plans with native species, including native species with a lower growth habit. Such restoration and revegetation plans shall demonstrate that the proposed Vegetation Management Plan will not significantly diminish the functions and values of the critical area or alter the forest and habitat characteristics of the site over time.

Yes ☒ or No ☐

Describe: The general objective of the plan is to restore the previously removed two (2) alder's and four (4) birch trees located in the 50 ft. buffer of the Type F stream and in the NGPE. By restoring and enhancing the vegetation along the banks of the on-site Lewis Creek, the critical area will receive greater ecological and biological functions. These actions will serve as equal to or greater than, a two to one ratio of mitigation.

(C) Would any proposed tree removal result in a significant impact to habitat associated with species of local importance?

Yes ☐ or No ☒

Describe: There is no additional tree removal proposed. The restoration plan will enhance areas that were previously disturbed.

If yes, can the impacted function be replaced elsewhere within the management area subject to the plan?

(D) Yes ☐ or No ☒ Is the area under application subject to any applicable neighborhood restrictive covenants that address view preservation or vegetation management? The existence of and provisions of neighborhood restrictive covenants shall not be entitled to any more or less weight than other reports and materials in the record.

Yes ☐ or No ☒

If yes, describe:

III. Public Notice and Comment

Application Date:	April 15, 2021
Public Notice (500 feet):	May 6, 2021
Minimum Comment Period:	May 20, 2021

The Notice of Application for this project was published in the City of Bellevue Weekly Permit Bulletin on May 6, 2021. It was mailed to property owners within 500 feet of the project site. No comments have been received from the public as of the writing of this staff report.

IV. Summary of Technical Reviews

A. Clearing and Grading

The Clearing and Grading Division of the Development Services Department has reviewed the proposed site development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff approved the application.

B. Utility Review

The Utility Review Division of the Development Services Department has reviewed the proposed site development for compliance with Utility codes and standards and approved the application.

V. State Environmental Policy Act (SEPA)

The environmental review indicates no probability of significant adverse environmental impacts occurring as a result of the proposal. The attached Environmental Checklist submitted with the application adequately discloses expected environmental impacts associated with the project. The City codes and requirements, including the Clear and Grade Code, Utility Code, Land Use Code, Noise Ordinance, Building Code and other construction codes are expected to mitigate potential environmental impacts. Therefore, issuance of a Determination of Non-Significance (DNS) is the appropriate threshold determination under the State Environmental Policy Act (SEPA) requirements.

VI. Critical Areas Land Use Permit Decision Criteria

LUC 20.30P.140

The Director may approve or approve with modifications an application for a Critical Areas Land Use Permit if:

- A. The proposal obtains all other permits required by the Land Use Code; and
Yes ☒ or No ☐
Describe: The proposal is required to obtain a Clearing & Grading Permit (GJ) prior to commencing work under this proposal. **See section VII for conditions of approval for required permit and rainy season restrictions.**
- B. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer; and
Yes ☒ or No ☐
Describe: The mitigation plans proposed to use native vegetation for restoration.
- C. The proposal incorporates the performance standards of Part 20.25H LUC to the maximum extent applicable; and
Yes ☒ or No ☐
Describe: As discussed in Section II, the proposal has demonstrated compliance with the performance standards for vegetation management within a critical area. **See**

section VII for conditions of approval for required permit and rainy season restrictions.

- D. The proposal will be served by adequate public facilities including streets, fire protection, and utilities; and
Yes ☒ or No ☐
Describe: The site is currently served by adequate public facilities. The proposal will not increase the need for public facilities on the site.
- E. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC 20.25H.210; except that a proposal to modify or remove vegetation pursuant to an approved Vegetation Management Plan under LUC 20.25H.055.C.3.i shall not require a mitigation or restoration plan; and
Yes ☒ or No ☐
Describe: The proposal includes a vegetation management planting plan meeting the recommendations of the Critical Areas Handbook and that is consistent with the requirements of LUC 20.25H.210. **See section VII for conditions of approval related to mitigation plan, planting timing and maintenance and monitoring activities.**
- F. The proposal complies with other applicable requirements of this code.
Yes ☒ or No ☐
Describe: Demonstration of compliance with the other applicable requirements of the Bellevue City Code will be completed under the review of the required clearing and grading permit.

VII. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, SEPA, City Code and Standard compliance reviews, the Director of the Development Services Department does hereby **approve with conditions** the **Ferguson Residence** vegetation management plan.

Note- Expiration of Approval: In accordance with LUC 20.30P.150.B, the Critical Areas Land Use Permit for Vegetation Management is valid for a period of no greater than seven (7) years after the effective date of the approval. The approval is not subject to extension provision of LUC 20.30P.155.

VIII. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

<u>Applicable Ordinances</u>	<u>Contact Person</u>
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Clearing and Grading Code- BCC 23.76	Janney Gwo 425-452-6190
Land Use Code- BCC 20.25H	Kimo Burden, 425-452-5242
Noise Control- BCC 9.18	Kimo Burden, 425-452-5242

The following conditions are imposed under the Bellevue City Code or SEPA authority referenced:

1. Clearing & Grading Permit Required: Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. Application for a clearing and grading permit must be submitted and approved. Plans submitted as part of the permit application shall be consistent with the activity permitted under this approval.

Authority: Land Use Code 20.30P.140
Reviewer: Kimo Burden, Land Use

2. Mitigation/Replacement Plan:

Plans submitted for the clearing and grading permit shall be consistent with the proposed mitigation planting and monitoring plans created by Galloway Environmental, Inc. dated April 6, 2021.

Authority: Land Use Code 20.25H.220.B
Reviewer: Kimo Burden, Land Use

3. Timing of Mitigation Planting:

All mitigation and replacement planting shall be installed prior to Fall 2021. If planted in the Summer Months significant irrigation shall be provided and a irrigation plan is required at the time of the Clear and Grade permit submittal.

Authority: Land Use Code 20.25H.220.B
Reviewer: Kimo Burden, Land Use

4. Installation and Maintenance Sureties and 5-Year Monitoring: Separate installation and maintenance sureties are required for the mitigation planting and based on cost estimates which includes all costs associated with plant installation and maintenance and monitoring for 5 years respectively. The cost estimate is required to be submitted as part of the clearing and grading permit application and the installation surety is required prior to permit issuance. The maintenance surety is required prior to clearing and grading final inspection. The maintenance

surety will be released upon successful completion of the 5-year maintenance and monitoring period and inspection by Land Use.

Authority: Land Use Code 20.25H.255

Reviewer: Kimo Burden, Land Use

5. Maintenance and Monitoring Reporting: Maintenance and monitoring is required to be carried out as detailed in the submitted plan. The reports can be sent to Kimo Burden at cburden@bellevuewa.gov or the address below.

Environmental Planning Manager
Development Services Department
City of Bellevue
PO Box 90012
Bellevue, WA 98009-9012

Authority: Land Use Code 20.25H.220.D

Reviewer: Kimo Burden, Land Use

6. Rainy Season restrictions: Due to the proximity to steep slope and stream critical areas, no clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

Authority: Bellevue City Code 23.76.093.A

Reviewer: Janney Gwo, Clearing and Grading

7. Pesticides, Insecticides, and Fertilizers: The applicant must submit as part of the required Clearing and Grading Permit information regarding the use of pesticides, insecticides, and fertilizers in accordance with the City of Bellevue's "Environmental Best Management Practices".

Authority: Land Use Code 20.25H.220.H

Reviewer: Kimo Burden, Land Use